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June 8, 2005

Ms. Janis Cooke
California Regional Water Quality Control Board
Central Valley Region
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Subject: Cache Creek, Watershed TMDL

Dear Ms. Cooke:

The California Department of Transportation (Department) reviewed your May 2005 staff report regarding proposed Basin Plan Amendments for the control of Mercury in Cache Creek, Bear Creek, Sulphur Creek and Harley Gulch. The Department strongly supports protecting the environment to achieve the best possible water quality. However, the Department does have concerns with the proposals of the staff report as outlined in comments presented in this letter.

The Department owns and maintains approximately 156 miles of roadway, two maintenance stations, one park and ride lot and two vista points in the watershed. The impervious area of this right-of-way is approximately 1,000 acres, approximately 0.2% of the watershed (700,000 acres). Available monitoring data indicates that our facilities are not a major source of mercury entering the creeks. Mercury concentrations measured within our statewide stormwater characterization study (CTSW-RT-03-065) averaged 37 ng/l (total). Under the California Toxics Rule (CTR) criterion, the limit for mercury is 50 ng/l.

The Department is regulated under our statewide general permit to minimize pollution loads from construction, maintenance, and development projects. As a result, we request that the proposed amendments to the Basin Plan be clarified in its references to the Department's statewide Storm Water Management Plan as being the appropriate mechanism for meeting those objectives.

Text on pages 12 and 13 of the staff report indicate that water quality and sediment monitoring will be required for any project disturbing soil – anywhere in the upper watershed and within the 10-year floodplain in the lower watershed. The fourth paragraph on page 49 (supporting language, but not part of the amendments) indicates that staff may require pre- and post-project water and sediment quality monitoring.

The Department recognizes that erosion associated with roads and bridges is problematic for long-term sustainability. All project areas are now stabilized to minimize post-construction soil erosion. Integral components of current practices are visual monitoring and periodic inspections. In addition, Storm Water Data Reports, which document the incorporation of BMPs for each project, are available for review by Regional Board staff.

Suggested Revision 1: Delete the sentence in the last paragraph on page 12 of the TMDL "Water quality and sediment monitoring is required to ensure compliance with this requirement." Replace with: "Caltrans shall sample for mercury as part of their initial environmental site assessments for projects and identify areas with potentially high concentrations in their environmental documents."

The last paragraph on page 63 includes the statement: "Erosion in the East Branch Harley Gulch related to the Department operations will also be controlled." This implies that the Department's operations currently represent a notable source of mercury to Harley Gulch. However, the Department currently implements the highest level of management practices to control erosion in impaired watersheds.

Suggested Revision 2: Rephrase the above sentence to read: "Caltrans operations in the East Branch Harley Gulch watershed will continue to minimize erosion to the maximum extent practicable."

The 10-year floodplain in the lower watershed has been mapped for specific projects, but is not clearly defined for this TMDL. Please take note that the area shifts over time, thus a static map generated for current conditions would only be representative until the channel meanders.

Suggested Revision 3: After the phrase "the 10-year floodplain" include a phrase referencing which study or report shall define it.

The staff report uses various sampling and monitoring parameters. Below is a sample tabulation showing some differences:

Page	Location	Statement
16	bottom	silt/clay (<65 microns) fraction
42	Part "3)"	"...where concentrations are greater than 0.2 mg/kg, dry weight."
48	3rd parag.	Mercury-enriched areas (0.2 mg/kg avg., 0.5 mg/kg max.) must not increase erosion...0.4 mg/kg avg. must decrease erosion
48	4th parag.	"elevated soil mercury concentration" average > 0.5 mg/kg
49	3rd parag.	Fence portions where soils are significantly greater than 0.2 mg/kg
50	2nd parag.	Project would be exempt if it does not involve disturbance of soils containing greater than 0.4 mg/kg...fines (<60 um)
72	2nd parag.	silt/clay fraction, suggested filter size 63 micron

Suggested Revision 4: For sampling and monitoring concentrations, define "fine-grained" sediments as material passing a 75-um (#200) sieve. Use the same parameter (0.4 mg/kg) throughout.

On page 13, the proposed amendment language prohibits "a net increase in erosion of mercury –enriched sediment" for new projects. This is the same restriction given in the cleanup order for the inactive mines. Even with the compliance methods offered, the Department's projects could be subject to unreasonable delay and liability. Slope stabilization activities conducted for the purpose of minimizing erosion could result in short-term increases in erosion. Thus, minimal wet weather could halt a project.

Suggested Revision 5: Rather than requiring absolute erosion control, require that best management practices or efforts be defined in storm water management plans for minimizing mercury loads.

We appreciate this opportunity to comment. If you have any questions please contact Ivan Karnezis at (916) 653-5417.

Sincerely,

MICHAEL FLAKE, Chief
Storm Water Policy
Division of Environmental Analysis

References:

Caltrans. 2003. Discharge Characterization Study Report. Report ID CTSW – RT – 03- 065. November 2003.